



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/787,058

03/13/2001

Wilhelmus Jacobus Van Gestel

PHN-17.552

1079

24737

7590

03/16/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, HUY THANH

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/787,058	Applicant(s) VAN GESTEL, WILHELMUS JACOBUS	
	Examiner HUY T. NGUYEN	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 17 February 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 11-15.
 Claim(s) objected to: 8 and 9.
 Claim(s) rejected: 1-7, 10 and 16-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment for examiner response to applicant's argument.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.

Response to Arguments

1. Applicant argues that "37 CFR 1.77 (b) does not require that the various sections of the specification to have a section heading. The only require that the sections appear in a particular order."

In response, the examiner disagrees. It is noted that 37 CFR (b) requires that **"Each of the letters items should appear in upper case , without underlining or bold type, as section heading ."** If the section headings are not provided to the specification , how the sections of the specification can be arranged in a particular order ?

Claim Objections

2. Claims 1,11 and 16 are objected to because of the following informalities: See examiner comment below. Appropriate correction is required.

Claims 1 and 16 called for methods for recording information. However, it is noted that there are no positive steps for recording information recited in the body of the claims .

Applicant argue that claims 1 and 16 provide positive steps in claims however . In response, it is noted that , applicant does not point out the positive steps that are being recited in the body of claims 1 and 16 .

Further for claim 1 and 11 , It is suggested that :

In claim 1 , line 1 , claim 11, line 2 , " , particularly " should be changed to --- comprising

In claim 1, line 2 , claim 11,line 2 "a recording" should be changed to --an optical -- ;

In claim 1, line 3, claim 11, line 4. ",particularly optical," should be deleted.

Claim Rejections - 35 USC § 102

3. Regarding claim 16, applicant argues that Takahashi does not teach the size of the replacement is dynamically changed. In response, it is noted that nowhere in claim 16, does it recites that the size of the replacement area can be changed during the recording session.

Regarding claims 1-7,10 and 16-20, Applicant argues that Takahashi and Ko do not teach the size of the replacement area can be changed. In response, it is noted that Takahashi and Ko teach the size of replacement area can be changed since the claimed replacement area is a mere area (space) occupied by the replacement data. During recording, when more replacement data are recorded the replacement area occupied by the replacement data is larger and when less the replacement data are recorded, the replacement are occupied by the replacement data is smaller.

Applicant further argues that Takahashi does not teach addressable areas. In response it is noted that Takahashi teaches addressable areas since the areas recorded by the data or replacement data are addressed by track numbers and sector numbers.

Applicant further argues that Takahashi does not teaches successive packets are stored in the other part of the user area. In response, it is noted that Takahashi

Art Unit: 2616

teaches recording the data or replacement data as sectors (packets) and the sectors are stored in each part of the user area .

Allowable Subject Matter

4. Claims 11-15 are allowed.

Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY NGUYEN
PRIMARY EXAMINER